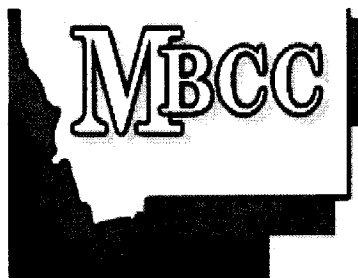


Overview of Sex Offender Management  
Judiciary Subcommittee  
2007 Montana Legislature

Montana Board of Crime Control  
February 5, 2007



CENTER FOR SEX OFFENDER MANAGEMENT

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A Project of the Office of Justice Programs, U.S. Department of Justice

# **An Overview of Sex Offender Management**

July 2002

## **Center for Sex Offender Management**

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## **Background**

Most convicted sex offenders reside, or at some point following a criminal justice sentence will reside, in the community. A comprehensive and collaborative approach to sex offender management can help to control offenders' sexually abusive behaviors. This document describes briefly characteristics of sex offenders and their victims, as well as ideal components for managing sex offenders in the community. Because of local policies or other restrictions, some of these components may not be practical or feasible for all jurisdictions to include in their management programs. At a minimum, sex offenders are best managed by multidisciplinary teams that include supervising probation or parole agents and treatment providers who work together to individualize supervision and treatment plans according to the unique challenges of a specific offender. Including additional components as described in this document can further enhance a jurisdiction's sex offender management program and potentially reduce further sexual victimization.

## **The Victims of Sexual Abuse**

Sexual abuse is considered to be a widely underreported crime. Because of the intensely personal impact that sexual crimes have on victims, many may be reluctant to report them. Based on analyses of self-report victimization surveys of women in the United States, however, researchers have been able to draw several important conclusions. Most sexual assaults are committed by someone known to the victim or the victim's family, regardless of whether the victim is a child or an adult (Greenfeld, 1997). Approximately 78 forcible rapes of women 18 years of age and older are committed each hour in the United States, and 1 of 6 U.S. women and 1 of 33 U.S. men have experienced an attempted or completed rape as a child and/or adult (Tjaden & Thoennes, 1998). At least one in five girls and one in seven boys have been sexually abused by age 18 (Finkelhor, 1994). Sexual crimes often are perpetrated against youth: 22 percent of female rape victims were assaulted before they were 12; 32 percent were between 12 and 17 at the time they were sexually assaulted (Tjaden & Thoennes, 1998). Approximately two-thirds of state prisoners convicted of rape or sexual assault offended against children (Greenfeld, 1997).

## **Adult Sex Offenders**

Although many practitioners describe sex offenders with such words as "manipulative," "secretive," "devious," and "deceptive," a set of characteristics (e.g., physical, mental, psychological, personality, emotional) that is common to all or most sex offenders has not been identified. Because of the diversity in the demographic and social makeup of those who commit sexual offenses, a profile of a "typical" sex offender does not exist, although the vast majority of sex offenders are male. While information about male sex offenders traditionally has dominated the literature in this field, a growing body of research about female sex offenders is beginning to emerge.

## **The Etiology (Cause) of Sexually Abusive Behavior**

Many etiological theories purport to explain why some men perpetrate sexual abuse. Unfortunately, none of these theories applies to all (or even a majority) of them. Sexual abuse is an extraordinarily complex, multi-faceted problem that cannot be easily or simply explained.

The great majority of sex offenders do not commit their crimes impulsively without any planning or forethought. Most sex offenders have a cycle that is associated with their offending behavior that begins hours, days, weeks, or even months before the actual sex crime is physically perpetrated.

## **Sex Offender Recidivism Rates**

Accurately measuring the rate at which sex offenders recidivate is difficult. Most studies that attempt to measure recidivism equate reoffending with rearrest or reconviction, which is problematic because of the generally accepted understanding that sexual assault is a widely underreported crime. Therefore, researchers are concerned that some reported recidivism rates are artificially low. Findings also suggest that recidivism rates fluctuate widely, depending on the type of sexual offense the offender has committed. Additionally, few longitudinal studies have been conducted on sex offender recidivism to date. In those that have been conducted, however, researchers conclude that long-term recidivism rates are lower for sex offenders than for the general criminal population. Researchers also have argued that offenders who receive specialized and intensive sex offender treatment have a significantly lower rearrest rate than offenders who did not participate in treatment. (For further information about sex offender recidivism studies, see: CSOM (2001), *Recidivism of Sex Offenders*.)

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## **Sexually Abusive Youth**

The prevalence of sexual abuse perpetrated by youth has increased in recent years. It is estimated that juveniles may account for up to one-fifth of all rapes and approximately one-half of all cases of child molestation committed each year in the United States (Barbaree, Hudson, & Seto, 1993; Becker, Harris, & Sales, 1993; Sickmund, Snyder, & Poe-Yamagata, 1997).

The emerging wisdom among experts who work with these youth is that they are profoundly different from their adult counterparts and that it is inappropriate to respond to juveniles who commit sex offenses by simply applying what is known about adult sex offenders.

Available research does not suggest that the majority of sexually abusive youth are destined to become adult sex offenders. Although funding and ethical issues have made it difficult to conduct carefully controlled treatment outcome studies, a number of encouraging clinical reports on the treatment of sexually abusive youth have been published. Sexually abusive youth appear to respond well to cognitive-behavioral and/or relapse prevention treatment, with rearrest rates of approximately 7 percent in follow-up periods of more than five years (Alexander, 1999). Program evaluation data suggest that the sexual recidivism rate for juveniles treated in specialized programs ranges from approximately 7 to 13 percent in follow-up periods of two to five years (Becker, 1990).

While these studies are not definitive, they provide support for the belief that the majority of these youth can benefit significantly from treatment. However, additional data are needed to understand more fully the extent and etiology of juvenile sexual abuse as victimization data indicates that a vast number of sexual assaults go unreported and there may be even higher rates of under-reporting among victims of incest/sibling offenses. (For further information about sexually abusive youth, see: CSOM (1999), *Understanding Juvenile Sexual Offending Behavior: Emerging Research, Treatment Approaches and Management Practices*.)

## Sex Offenders With Developmental Disabilities

Many communities around the country struggle with the issue of managing adult sex offenders with developmental disabilities. Although they may be different in terms of their cognitive skills, developmentally disabled sex offenders pose many of the same challenges to supervision agencies as other adult sex offenders. While the tendency of some agencies may be to treat this population in a different way than sex offenders without developmental disabilities, it is important to remember the following:

- Sex offenders with developmental disabilities pose as clear a threat to public safety as sex offenders without developmental disabilities.
- Developmental disabilities do not cause or excuse sexual offending.
- Sex offenders with developmental disabilities should be provided treatment that is appropriate to their developmental capacity and their level of comprehension.

To assess effectively whether a sex offender with developmental disabilities can be adequately managed in the community given the unique kinds of services they are likely to need, supervision and treatment agencies must:

- Evaluate the offender's level of cognitive impairment to gauge his or her suitability for community supervision.
- Work with treatment providers who are knowledgeable about sex offending behavior and have treated developmentally disabled individuals.
- Work intensively with personnel from mental health and social services departments, group home staff, and others who may be involved closely in the offender's daily life.

## Female Sex Offenders

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The myth has long existed that females do not perpetuate sexual abuse. And although men commit the majority of sexual offenses, research indicates that females commit approximately 20 percent of sex offenses against children (ATSA, 1996). Unofficial data sources (those that include data about cases other than the ones reported to police) also suggest that the percentage of sexual abuse cases perpetrated by women may be as high as 20 percent of cases overall (Finkelhor & Russell, 1984).

Unlike their male offender counterparts, female sex offenders were sexually victimized at almost twice the rate of men, most often by a family member (Kaplan & Green, 1995). Other preliminary research findings suggest the following:

- Sexual abuse that is perpetrated by women often occurs in care giving situations and may be committed in isolation or because of coercion by or in conjunction with a male counterpart.
- Women who sexually abuse are often socially isolated and lack a sense of attachment and belonging.
- Female sex offenders often have a history of substance abuse and emotional disturbances such as depression and post-traumatic stress disorder, and they often have experienced a history of sexual and physical abuse as children.
- Practice regarding the treatment and supervision of female sex offenders is in its infancy. However there appears to be consensus about the separation of males and females in treatment settings and agreement that treatment strategies for females need to be gender-specific, addressing the unique etiology of female sexual abuse.

# The Components of Effective Sex Offender Management

## The Fundamental Principles and Concepts that Underlie Sex Offender Management

No two jurisdictions can or should manage sex offenders in exactly the same manner; local practices must take into account the nature of the local population of sex offenders as well as the resources available to respond to sex offending behavior. The following are some common elements in the promising sex offender management work that is occurring in diverse jurisdictions around the nation:

- A primary goal—shared by all stakeholders—of preventing future sexual victimization.
- Multidisciplinary, multi-agency, and collaborative responses on both the case management and policy levels.
- Practitioners who are specially trained to work with sex offenders.
- The willingness and the capacity to assess critically—and in an ongoing fashion—current approaches and practices so that as the sex offender management field evolves, the work that is occurring in these jurisdictions also advances.

## Collaboration

Various agencies are involved with sanctioning and treating offenders and protecting and treating victims. Although some of these agencies may not have traditionally worked together—in fact, they may have divergent missions and goals—collaborating to prevent additional occurrences of sexual abuse by offenders under supervision is vitally important. Collaborating partners should be in contact with one another about developing policies on sex offender management, assessing the impact of those policies on victims, and seeking the input of one another on the most effective ways to hold sex offenders accountable while providing support to and safety for victims. Increased information sharing, limited confidentiality, and an overall willingness to work more closely with other organizations should characterize all collaborative efforts.

The personnel who should be involved in these collaborations include:

- Criminal justice system personnel such as judges, prosecutors, defense attorneys, and law enforcement officers who are responsible for processing offenders through the criminal justice system.
- Correctional officials who are responsible for preparing sex offenders for release to the community as well as those supervision and law enforcement officers who monitor offenders while they are in the community.
- Victim advocates and victim treatment providers who provide services, support, and information to victims throughout the criminal justice process and can serve as their voice in criminal justice system decisions that can impact victims.
- Sex offender treatment providers who can rely in part on information gleaned from supervision officers and others who may have contact with or knowledge of offenders and their behavior to more effectively hold them accountable and to help them develop strategies to stop their sexually abusive behavior.
- Others who have a stake in or role to play in preventing further victimization, from polygraph examiners to social service providers, child protective agencies, and school administrators.

Despite the difficulties that coordinating activities and policies among these different stakeholders is likely to pose, the effective management of sex offenders requires these individuals to work together toward the unified goal of protecting victims and the community.

## A Victim-Centered Approach

In addition to offering services to survivors of sexual abuse and responding to issues that may arise when offenders are released into the community, victim advocates can serve an extremely important function overall: to ensure that the interests of current and potential future victims remain at the forefront for those working to manage sex offenders in the community.

Victim advocacy is a central component of several promising sex offender management initiatives around the country. Victim advocates have a unique perspective on the trauma that victims face. They have the capacity to establish relationships with victims, act as a resource for victims as they participate in the criminal justice process, and continue to support victims after offenders are released into the community under supervision. This specialized and personal understanding of the needs of victims can permit advocates to work with supervision agencies to:

- Enhance sex offender management policy development to ensure that the safety needs of victims are paramount.
- Develop and deliver professional training initiatives to educate criminal justice system and other actors about the effects of victimization.
- Inform day-to-day supervision practices, especially around policies that may be harmful to victims.
- Assist and support supervision agencies with community notification and education efforts, which should include a component aimed at providing information about sexual assault to community members.

## Specialized Sex Offender Assessment

Because of the complex and varying nature of sexual abuse and the individuals who perpetrate it, practitioners must assess sex offenders and their behavior effectively and in an ongoing, collaborative fashion. This enables them to respond appropriately to and manage the different levels of risk that offenders pose over time to victims and the community. Sex offender assessment can be seen as a process that has two related domains (risk and clinical) and inter-dependent purposes, which practitioners must understand and communicate about clearly and consistently. The risk assessment domain has two purposes: risk prediction and risk management.

- *Risk prediction* is the science of predicting the likelihood of recidivism over a period of years. The most accurate and useful predictions of risk come from empirically based, scientifically validated tools. These tools are developed using historical or static (unchangeable) risk factors (such as number of convictions) that are statistically correlated with sexual recidivism risk. They enhance the ability of practitioners to identify sub-groups of offenders who pose a higher risk to re-offend than others.
- *Risk management* is the process (undertaken by probation/parole officers, treatment providers, police officers, victim advocates, and many others) of recognizing and responding to on-going, short-term (hourly, daily, or weekly) changes in sex offender risk. This process is premised on the understanding that every sex offender has a unique set of dynamic factors (or "criminogenic needs") such as anger problems that are related to the immediate risk they pose.

The clinical assessment domain also has two purposes: clinical diagnosis and clinical treatment.

- *Clinical diagnosis* is the process of assessing whether severe psychological or psychiatric problems are present in sex offenders. The results impact the criminal justice process (i.e.,

competency, mental status, and criminal responsibility) and the determination of appropriate treatment responses.

- *Clinical treatment* includes the assessment of sex offenders' specific treatment needs; the development of comprehensive treatment plans that respond to these needs; and the ongoing assessment of these needs and the effectiveness of the treatment interventions employed (or treatment progress).

The information garnered from risk prediction tools; and the risk management, risk prediction, clinical diagnosis, and clinical treatment processes all inform the critically important point-in-time decisions that practitioners make throughout the criminal justice process (beginning at arrest and ending at the termination of a sentence) to protect victims and the community.

## **Specialized Sex Offender Supervision**

The experiences of probation and parole agencies across the nation indicate that sole reliance on commonly used, traditional supervision practices (e.g., scheduled office visits, periodic phone contact) does not adequately address the unique challenges and risks that sex offenders pose to the community. In response, specialized approaches to sex offender supervision have been developed in jurisdictions around the country that often include:

- A primary focus on the prevention of future victimization and the protection of victims and the community.
- Close collaboration and frequent information sharing among supervision agents and other practitioners who share responsibility for sex offender management (e.g., treatment providers, victim advocates, law enforcement officers, and polygraph examiners).
- Specialized, ongoing training for agents who work with sex offenders.
- Special conditions of supervision designed to address the specific and unique risks and needs of each sex offender.
- Supervision agents who are willing and able to be involved in each offender's daily life and habits.
- Small caseloads so that agents working with sex offenders can engage in intensive casework in the field.

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## **Specialized Sex Offender Treatment**

Specialized treatment is a critical component of any jurisdiction's approach to sex offender management and is markedly different from traditional mental health counseling or psychotherapy in a number of significant ways:

- The primary focus is the protection of victims and the community.
- Information discussed in treatment sessions is shared with supervision agents, polygraph examiners, and others as necessary.
- Considerable attention is directed toward making offenders understand the harm they have caused their victim(s).
- Thinking errors that contribute to offending patterns are revealed, examined, and challenged.
- Offenders participate in professionally facilitated group sessions in which they challenge one another about their denial, distortions, and manipulation.



providing ready access to this information for all law enforcement officers, and developing systems to transfer registration information within and across state lines effectively and efficiently so that offenders cannot escape registration obligations. The most comprehensive approaches to sex offender registration involve the collaboration and coordination of efforts among all of the agencies involved in the process for the primary purpose of preventing further sexual victimization.

## **Community Notification**

As a result of federal legislation, all 50 states have enacted sex offender community notification laws. The primary objective of these laws is to ensure that the public can access information that will assist them in protecting themselves and their families from dangerous sex offenders who reside in their communities. Tremendous variation exists among the states, and even within states, in how these statutes have been implemented. However, most states use one or more of the following practices for disseminating information: media release, door-to-door flyers, mailed flyers, community meetings, or Internet distribution.

Despite the intention of enhancing public safety, community notification laws can have negative effects on the criminal justice system, the community, victims, and offenders. Many programs throughout the country have made efforts to reduce these effects. These efforts—conducted in a multi-disciplinary, collaborative fashion—involve educating communities about methods that citizens can employ to protect themselves and their families from sexual victimization and advising community members that most sexual abusers live undetected in the community.

## **Civil Commitment**

8 Sixteen states have enacted what are termed “sexually violent predator” or “civil commitment” statutes. These statutes allow state authorities to hold a sex offender after his or her criminal sentence has expired if he or she is deemed too dangerous to be released. Civil commitment statutes mandate that these individuals be confined to a treatment facility until such time that they are assessed to have benefited enough from treatment that they no longer pose an imminent risk to the community. These statutes have been challenged in many states because of civil liberty concerns; however, to date, no state’s civil commitment legislation has been successfully overturned on those grounds.

## **Public Health and Primary Prevention**

Current interventions directed to ending sexual abuse focus primarily on intervening with offenders who have already perpetrated sex offenses. However, criminal justice system actors who envision a response to sexual violence beyond the bounds of their own system must begin to forge collaborative partnerships with those in the public health and primary prevention arenas in an effort to stop sexual violence before it occurs.

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## Sex Offender Issues/Topics

### Legislative Issues:

- Information on Sexual Offenders and Predators: Congressional approval of the Adam Walsh Child Protection and Safety Act of 2006 calls on states to meet requirements on how information about sex offenders is collected and shared with other states, as well as strengthening penalties for failure to register as a sex offender. As new regulations and directives are announced by the U.S. Attorney General, states will have to react to make sure their laws comply or risk reduction in federal funding of related programs.
- 110th CONGRESS H.R. 291 Seeks to establish a National Sex Offender Risk Classification Task Force to create guidelines for the establishment of risk based sex offender classification system for use in sex offender registries (sic)
- State legislators continue to look at ways to protect minors from online predators.

### Technology:

- GPS and electronic monitoring
- National and Local Sex Offender Registries
- Criminal Justice Technologies: Basic Investigation of Computer Crime,/Online Exploitation, Internet Investigation; Integrated Justice Information systems, Data Recovery and analysis

### Supervision Strategies:

- Civil Commitment Models: Civil commitment is used by some states as a legal mechanism to extend confinement for sex offenders that "max out" on their sentences.
- Containment Models: An alternative to civil confinement is Lifetime Supervision of Sex Offenders. It repeals determinate sentencing, allowing for very long sentences while preserving the option of early release on parole. C.R.S. 16-13-801
- Residency restrictions

## **Hot Topic of Discussion in Sex Offender Management**

Although civil commitment is used by some states as a legal mechanism to extend confinement for sex offenders that "max out" on their sentences, the following issues have been raised in association with this mechanism: constitutional challenges, contests regarding conditions of confinement and absence of meaningful treatment, amount of funds the states spend to defend suits (and paying out awards or fines, where courts have found states in contempt for failing to provide a level of care the court considers adequate or failing to provide "less restrictive" placements in the community). Additionally, there is a cost factor to consider with civil commitment. Currently, there are more than 3,000 Sexually Violent Predators in Department of Mental Health facilities nationally. Very few of these offenders have been released.

An alternative to civil confinement is Colorado's "Lifetime Supervision of Sex Offenders Act." It repeals determinate sentencing for these offenders, allowing for very long sentences but preserving the option of early release on parole-- but not just any parole. It's a special, aggressive parole, with specially trained parole officers with small caseloads; Testosterone-lowering drugs are used in some cases; regular polygraphs are administered; and/or GPS might be employed to track the offender's movements. Colorado's approach is called the "containment model." The idea is that the risk of recidivism is "contained" by measures to closely supervise the offender and manage his/her behavior. It costs less, can be used with larger numbers, is constitutionally cleaner, and doesn't require a pretense to treatment. Colorado's approach comports with the Center for Sex Offender Management (CSOM) approach to sex offender management supervision. CSOM has been working with states and jurisdictions around the country to implement a similar approach.

In instances where there is no community supervision of offenders, the role of law enforcement becomes increasingly important. Law enforcement is critical in verifying registered offender addresses, enforcing zoning laws, following up on arrest warrants for registry non-compliance, and ensuring offenders are not living with young children. CSOM has provided and will continue to provide training and technical assistance to law enforcement in regard to managing sex offenders.

Premises of Sex Offender Management  
Significant Emerging Innovation in Sex Offender Management

- Requires multi-disciplinary collaboration
- Victim Safety is paramount

Collaboration is Essential Because

- Sexual abuse involves many arenas
- Information and disclosure are key
- There is a common goal

Collaboration Between Supervision and Treatment

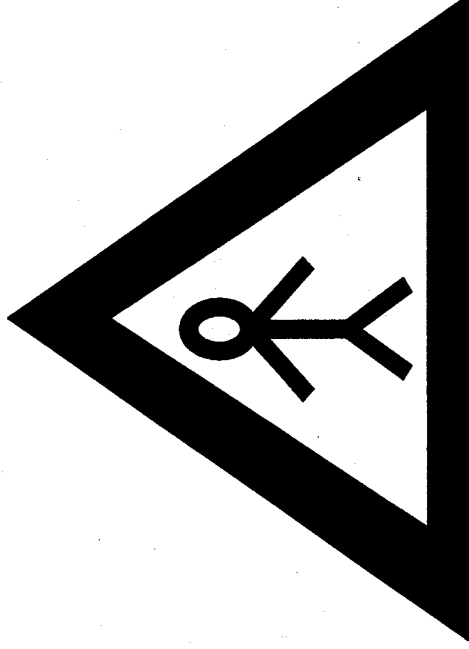
- Traditional separation/confidentiality is gone
- Both focus on accountability
- Both focus on preventing future victimization
- Probation>Treatment>Victim Advocate roles

The Containment Model

- Coherent, shared philosophy
- Victim –centered team approach
- Consistent policies
- Monitoring and feedback
- Probation/parole, treatment, and polygraph examiners

# **A Model Process-- *Containment Approach***

**Criminal Justice System**



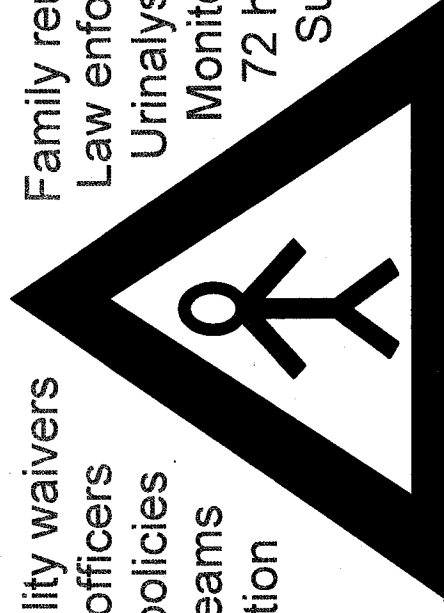
**Sex Offense  
Specific  
Treatment**

**Polygraph**

# A Model Process-- Containment Approach (cont.)

## Criminal Justice System

Confidentiality waivers  
Surveillance officers  
Consistent policies  
Interagency teams  
Employment restriction  
Internet restriction



Family reunification policies  
Law enforcement registration  
Urinalysis  
Monitored leisure time  
72 hour MH hold  
Supervision conditions  
Victim therapist

Sex Offense  
Specific  
Treatment

Approved treatment providers  
Polygraph examiner approval  
Leisure time monitoring  
Victim community approval  
Cross training  
Victim services

Polygraph